



Hiring a Civilian Attorney



The legal system can be intimidating--but it doesn't have to be. For all its formalities and intricacies, our system of laws is there to protect every American citizen. Our system was revolutionary when it began--now we take it for granted. But it's still about freedom, protecting the individual and turning to a better way of settling disputes. We'd like to help you better use the system. This article, produced by the Colorado Bar Association, will tell you: When you need a lawyer, how to choose a lawyer, and details about fee arrangements, alternatives to court and how to complain about a lawyer.

When do I need a lawyer?

If you answer "yes" to any of the following questions, you should consult a lawyer.

- Have I tried to resolve this matter by speaking directly with "the other side" and failed?
- Am I being threatened with legal action by some individual or situation?
- Do I need someone to champion my cause or speak for me?
- Have I been served with papers (summons, warrant, subpoena)?
- Does my opponent have a lawyer?
- Is the outcome worth the cost of hiring a lawyer?
- Am I involved in a transaction of importance to me (buying or selling a home, signing a contract, starting a business, writing a will, etc.)?

How can I find a lawyer?

Keep in mind that it is important to find the right lawyer and it is in your best interest to shop around.

- Ask friends or relatives who have used a lawyer, someone in a field connected with your case, or co-workers for their recommendations.
- Use a Lawyer Referral Service listed in the telephone book--they will try to give you a referral to a lawyer in your community who does the kind of work you need.
- Consult the Yellow Pages or go to the local library and consult a legal directory.
- If you cannot afford a lawyer, call the Legal Services Office nearest you (listed in the phone book). If you can't find the number, call the Colorado Bar Association at (303) 860-1115 (The Active Duty Referral Service is just for Military members).

Here is a list of things you should consider or ask in your first call or meeting with the attorney.

- Number of years of experience you have had?
- How long have you been in practice?

The information provided in this document is meant for the sole use of Active Duty service members, retirees, their families, and those individuals eligible for legal assistance. The information is general in nature and meant only to provide a brief overview of various legal matters. Rights and responsibility vary widely according to the particular set of circumstances in each case. Laws can vary across states, services, and civilian jurisdictions and laws are changed from time to time. Do not rely upon the general restatements of background information presented here without discussing your specific situation with a legal professional.

- Do you have a Specialization?
- How many cases like this have you handled?
- Have you been successful in them?
- How much do you usually charge?
- Do you charge for the initial consultation?
- How much is your hourly rate?
- What is this likely to cost me?
- How do you charge?
- What are your Community Activities?
- Have you had complaints about your past performance?
- Will you respond to my questions promptly and clearly?
- Will you keep me informed about the progress in my case?
- What is your policy on consulting me about what needs to be done in the case?
- How long do you expect this to take?
- What's your policy on returning phone calls? How soon?
- How does your staff support you and your ongoing cases?

What are my alternatives?

Prevention of legal problems is the best alternative and can save you time, money and needless worry--and often, a lawyer can help you with this. If you do have problems that appear to need legal solutions, there are alternatives to hiring an attorney and going to court--you probably should examine these carefully.

Representing yourself and using self-help materials. It's legal for you to represent yourself in court and handle your own legal matters, but judges and court personnel aren't allowed to give you any legal advice as your case proceeds. It is important to be aware of all court procedures, filing requirements and deadlines--you will be held to the same standards as an attorney. You can ask procedural questions of the court clerk. Local or county law libraries have copies of state and local laws that you will need to understand and follow. You can buy self-help packets (for instance, on divorce) at many bookstores. Also: You can go to small claims court for a civil matter that's under \$7,500; your library may have a video on using small claims court and getting your own divorce (these are available in Denver).

Using mediation services. Mediation is a process, which helps people in conflict work out a mutually acceptable agreement to disputed issues, with the aid of a trained professional mediator. Find them through the Yellow Pages or ask a lawyer for a referral.

Arbitration services. In arbitration, the parties agree to let an impartial arbitrator or panel of arbitrators hear the evidence and decide the outcome of these disputes. Look in the phone book or ask an attorney for names.

Neighborhood Justice Center. This is a program available in Denver and Colorado Springs for resolving disputes among neighbors outside the court system.

How do lawyers set their fees?

Legal fees depend on several factors, which include the amount of time spent on your problem; the lawyer's ability, experience and reputation; novelty or difficulty of the case; the results obtained; and costs involved. Other factors involved in legal fees include what the lawyer pays in rent, utilities, and of secretarial and paralegal help, office equipment, computers, etc. The primary types of fee arrangements are:

Hourly Rates - The fee is based on the amount of time the lawyer spends. It may also include any time which the lawyer's paralegals spend on your case.

Fixed Fee - This is a flat fee charged for a routine service such as an uncontested divorce, a simple bankruptcy or a will.

Contingent Fee - The lawyer receives a percentage of any amount recovered on behalf of the client. You should be sure to find out whether the fee will be calculated before or after any other expenses are deducted from your settlement.

Retainer - A client makes a "down payment" and future costs are billed against that amount.

Costs in addition to the lawyer's time can include filing fees, photocopying, phone calls, paralegal's time, messengers, serving papers, witness fees, and computer related costs

What should I expect when I hire a lawyer?

- Vigorous and competent representation of your case.
- Copies of all important documents.
- A written fee agreement and detailed billing statements.
- The whole truth, even if it hurts.
- To be kept fully informed.
- To be treated with respect.
- A negotiated settlement if both sides can reach a fair agreement.
- Agreement with your goals and an understanding of your objective.
- No conflict of interest with the opposing side.
- Timely return of phone calls.

What should my lawyer expect from me?

- To be completely honest about all facts in your case, whether or not they are favorable.
- To follow agreed-upon advice.
- To ask questions when you don't understand; to speak up when you disagree.
- That you be on time for appointments.
- That you accept some responsibility, such as informing your attorney about new developments, etc.
- To be paid a reasonable fee promptly for the work performed.

Can I change attorneys?

Yes--you can do this by simply telling the attorney of your wishes. Giving notice is a matter of courtesy and may be necessary so that if a lawsuit has been filed, the attorney may ask the Court for permission to withdraw. You may still be obligated to pay for any services, which have been already performed on your behalf, and costs, which have been incurred. You are entitled to the return of your files, provided your attorney does not have a valid attorney's lien.

What if I have a complaint against my lawyer?

Maybe your lawyer isn't returning your calls. Or perhaps you feel there are problems with your case that your attorney isn't addressing. Sometimes a disagreement stems from a simple misunderstanding--and the best way to handle this is to talk directly with your attorney. If this approach fails, and you believe your attorney has acted improperly or unethically, you do have recourse.

In Colorado, discipline of lawyers is handled by the Office of Attorney Regulation Counsel of the Colorado Supreme Court. You can call them at (303) 866-6400. Do not file a written complaint before contacting them by phone. This can lead to the attorney being admonished, privately or publicly censured, suspended, or even disbarred from the practice of law. If you file a request for investigation, this would put you in an adversarial position with your attorney and you will need to hire another attorney.

If you disagree with your attorney about fees, you can write or call the Colorado Bar Association and ask for help from the Legal Fee Arbitration Committee. If you and your attorney both agree to do this, you can go before a committee who will hear your case and make a binding judgment. The committee is composed of lawyers and non-lawyers.